THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION No. 11150 of 2001&

Contempt Case No. 845 of 2002

Dated: 24.08.2005

Writ Petition No. 11150 of 2001:

Between:

Dr. K.Kusuma Bai, d/o. K.Jayarami Reddy,

52 years, r/o. Hyderabad

… Petitioner

And

1) Osmania University, rep. by its Registrar,

Hyderabad & 3 others

…Respondents

COMMON ORDER:

Challenging the alteration of *inter se* seniority of the petitioner vis-à-vis respondents 2 to 4 and giving earlier dates to them in Order No.MR-67/182/99/Admn.III, dated 17.02.2002 by the first respondent as illegal, violative of U.G.C. Guidelines, 1998, G.O.Ms. No.208, dated 29.06.1999 and provisions of Articles 14, 16 and 21 of the Constitution of India, the present Writ Petition is filed.

It is the case of the petitioner that she was regularly appointed as Lecturer with the first respondent in the year 1984 and she was selected as Reader/Associate Professor in the year 1991. She received many laurels and the articles written by her were published in many journals. In the classified list of officers and teachers issued by the first respondent, her name is shown at sl. No.7 and the second respondent is at sl. No.8. The respondents 3 and 4, who were appointed later and promoted as Associate Professors under Career Advancement Scheme (CAS), are at sl. Nos. 14 and 15 respectively. It is further submitted that the Statement Governments have to follow the guidelines issued by the University Grants Commission (UGC) from time to time and the Universities and Management Colleges should make necessary changes in their statutes, rules and regulations in accordance with the guidelines of the UGC. The Associate Professors/Readers who complete minimum of 8 years service are automatically promoted as Professors under CAS. The State Government issued G.O. Ms. No.208 Higher Education (UE.II.1) Department, dated 29.06.1999 adopting UGC pay scales, under which the post of Professor under CAS must be filled by direct recruitment by all India advertisement and promotion from the post of

Reader after 8 years of service. It is further submitted that the petitioner applied for appointment as Professor under CAS and after screening by the selection committee, the first respondent issued the impugned orders dated 17.02.2001 appointing the petitioner, respondents 2 to 4 and others as Professors. But, surprisingly, third respondent was shown at sl.no.1, and the respondents 2 and 4 at sl.nos. 3 and 4, and the petitioner at sl. no.5, in the list. She submits that there is no provision in CAS for altering *inter se* seniority. Hence, she prays to set aside the impugned orders.

The counter affidavit filed by the first respondent, it is contended that the petitioner constructed this Writ Petition on the classified list published by the University. But, the classified list is not a seniority list. It is further submitted that depending on the suitability, the selected candidates are placed in order and so, the petitioner can not have any grievance in this respect. In pursuance of the implementation of UGC guidelines on CAS vide G.O.Ms. No.208, the first respondent-university devised a scheme approved by its Executive Council on 20.12.2000 and the UGC also approved the selections made thereafter. It is further submitted that the seniority of the teachers appointed as Professors is as per the order of merit/suitability decided by the Committee as finally approved by the Executive Council. The impugned orders dated 17.02.2001 were issued as per the merit list prepared by the selection committee and finally as may be resolved by the Executive Council. Therefore, there are no grounds to grant the relief sought for and prayed for dismissal of the Writ Petition.

The counter affidavits filed by other respondents 2 to 4 also run on the same lines and sought for dismissal of the Writ Petition.

Learned counsel for the petitioner contended that in the classified list of officers and teachers, petitioner's name is shown at No. 7 and she has to be given promotion and she should have been shown as no.1

in the impugned proceedings. He further contended that as per the University Rules, one has to complete 8 years of service as a Reader, and without completion of 8 years of service, promotion to the post of Professor under CAS can not be given and he placed strong reliance on the appointment orders dated 07.10.1991 in respect of the third respondent and the promotion of petitioner and respondent no.2 as Reader on the same day i.e. on 11.09.1991. He further contended that the fourth respondent has not put up 8 years of service as Lecturer before promoting him as Reader and hence, he prays to set aside the impugned proceedings.

The learned counsel appearing for the first respondent contended that the CAS will be given to the eligible candidates immediately after completion of 8 years of service from the date of their appointment as Associate Professors and as such, the impugned proceedings were issued as per the recommendations made by the duly constituted selection committee during the selection process, and they were completely in accordance with the statutory rules of the University Grants Commission and hence, the same need not be interfered with.

The learned counsel for the respondents 2 to 4 contended that CAS will be given as soon as completion of 8 years of service and the selection process in issuing the proceedings was not under challenge; that the dates of appointments published by university in the year 1999 as Associate Professors are not under challenge, and therefore, the impugned orders do not suffer from any infirmities so as to call for any interference by this Court.

There are guidelines issued by University Grants Commission for appointment to the various posts for the purpose of giving career advancement. In this case, we are concerned with the promotion to the post of Professor in the CAS. It is not in dispute that it is not a regular promotion to the post of Professor. Clause 7.5.0 of the

Notification reads that in addition to the sanctioned position of Professors, which must be filled in through direct recruitment through all India advertisements, promotions may be made from the post of Reader to that of Professor after 8 years of service as Reader. Clause 7.6.0 of the Notification is the procedure to be followed by the selection committee for selecting the candidates for giving promotion from Reader to the post of Professor.

Clause 7.6.0 stipulates certain guidelines for a candidate to place the material before the selection committee. So, the above provision makes it clear that in order to give benefit of the CAS for promotion to the post of Professor, one must have rendered a minimum of 8 years of service in the category of Associate Professor or Reader. The classified list of officers and teachers corrected up to 31.1.1999 issued by the office of the Registrar, Osmania University, shows that the petitioner was appointed as an Associate Professor with effect from 11.09.1991. Whereas the second respondent was also promoted on the same day. The third respondent was promoted on 01.09.1986 whereas the fourth respondent was promoted on 27.03.1991. As soon as they complete their respective 8 years of service in the category of Associate Professor or Reader, they become eligible for conferment of CAS in the category of Professors. At the same time, their selection to the post of Professor under the CAS has to be approved by the selection committee i.e. the selection committee has to select the candidates who are successful in the selection process for giving CAS for the post of Professor. These proceedings would clearly indicate that they have completed 8 years of service as on the dates mentioned in the impugned proceedings.

The learned counsel for the petitioner placed strong reliance on the proceedings of the University dated 07.10.1991 whereunder the third respondent was given promotion with effect from 01.10.1991. Whereas in the classified list of officers, his promotion as Associate Professor was given on 01.09.1986. On this aspect, the learned counsel for the third respondent stated that the Osmania University

issued proceedings dated 17.12.1992 wherein the date of eligibility for designation as Reader in respect of the third respondent is shown as 01.09.1986. The university also filed additional papers stating that the third respondent became Associate Professor from 01.10.1991 under CAS with effect from 01.09.1986. If that fact is taken into consideration, the first respondent-university has given the CAS of revised UGC pay scales on the completion of 8 years of service in the category of Associate Professor or Reader. So, contention of the learned counsel for the petitioner can not be accepted that none of the persons in the impugned proceedings have completed 8 years of service in the category of Associate Professor, and so also the contention of the learned counsel for the petitioner that since name of the petitioner was shown at Sl. No. 7 in the classified list, she should be selected as a first candidate in the impugned proceedings, in view of the fact that the impugned proceedings have been issued conferring the CAS on the respective dates of their completion of their 8 years of service as Reader.

Several contentions have been raised in the Writ Petition. It is not in dispute before this Court that promotion as Professor under CAS of the revised UGC pay scales has to be made by the duly constituted selection committee. Simply because a person completes 8 years of service in the category of Associate Professor or Reader, he will not get automatically the CAS benefit unless he was selected by the duly constituted selection committee. The selection process is not under challenge before this Court. Unless the selection process is arbitrary and illegal, the impugned proceedings can not be set aside. Since it is not shown that the impugned proceedings are issued contrary to the statutory rules, the same can not be interfered with. Therefore, the Writ Petition is devoid of merits and the same is accordingly dismissed. No costs.

In so far as the contempt case is concerned, the direction given by this Court on 19.07.2002 in W.P.M.P. No. 14723 of 2002 is to maintain status quo as on that day. But, on 18.07.2002, the Vice Chancellor has already approved the appointment of the third respondent as a Professor. Therefore, there is no willful disobedience of the orders of this Court. In any view of the matter, since the main Writ Petition is devoid of merits on the ground that the impugned proceedings do not suffer from any incurable legal infirmities so as to call for interference, no orders can be passed in the Contempt Case. The Contempt Case is, therefore, closed.

(K.C.BHANU, J.)

24.08.2005

DRK